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 THE WAVE STUDIO, LLC

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

THE WAVE STUDIO, LLC, a New York
 Limited Liability Company,

Plaintiff,

v.

BRITISH AIRWAYS PLC, a United Kingdom
 Corporation, HOTELS COMBINED LLC, an
 Australian Corporation, SWISS
 INTERNATIONAL AIR LINES LTD., a
 Switzerland Corporation d/b/a SWISS, TRAVIX
 TRAVEL USA INC., a Georgia Corporation,
 VISITUSA LLC, a Utah Limited Liability
 Company, and DOES 1-100,

Defendants.

Case No.: 15-cv-01341

**COMPLAINT FOR COPYRIGHT
 INFRINGEMENT**

JURY TRIAL DEMANDED

The Wave Studio, LLC (“Plaintiff”), by its attorneys, Cobalt LLP, for its complaint against
 British Airways PLC (“British Airways”), Hotels Combined LLC (“Hotels Combined”), Swiss
 International Air Lines Ltd. dba Swiss (“Swiss”), Travix Travel USA Inc. (“Travix”), VisitUSA
 LLC (“VisitUSA”), and Does 1-100 (collectively “Defendants”) alleges as follows:

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NATURE OF THIS ACTION

1
2 1. Plaintiff is the copyright owner of photographic works created by one of its
3 members, Junior Lee. Ms. Lee is a Malaysian photographer who uses her pictures to create
4 distinctive marketing and promotional materials for prominent hotels and renowned travel
5 organizations worldwide. This is an action for copyright infringement arising out of Defendants'
6 unauthorized reproduction, display, distribution, publication, and utilization of several of Plaintiff's
7 photographs in connection with Defendants' promotion and sale of hotel and travel bookings on
8 websites accessed across the United States.

9 2. Ms. Lee is contracted either by hotel management companies and promotional
10 agencies or by hotel and travel locations directly to photograph elite hotel properties and destination
11 locales and to create marketing and promotional materials featuring her photographs. However, per
12 the express terms of her contract with such agencies, Plaintiff retains sole and exclusive ownership
13 of all right, title, and interest in and to the underlying photos, as well as the sole and exclusive right
14 to license, distribute, and use the photographs for any and all other purposes.

15 3. As set forth in more detail below, Defendants have committed blatant acts of
16 copyright infringement by improperly using Plaintiff's photographs without authorization for their
17 own financial gain, including but not limited to, using Plaintiff's photographs in articles, photo
18 galleries, and promotional materials, all of which are generating traffic to and revenue for
19 Defendants and their businesses. By virtue of this action, Plaintiff should be awarded the
20 appropriate injunctive relief and monetary damages to remedy and redress Defendants' rampant,
21 willful, and continued misuse of Plaintiff's copyrighted photographs.

JURISDICTION AND VENUE

22
23 4. This Complaint alleges causes of action under the copyright laws of the United
24 States, Title 17 of the United States Code.

25 5. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§
26 1331 and 1338 because Plaintiff's claims against Defendants arise under Title 17 of the United
27 States Code.

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1 companies regularly transacted or solicited business in this district through, *inter alia*, a website
 2 resolving to britishairways.com.

3 12. Upon information and belief, Defendant Hotels Combined is a foreign business
 4 corporation licensed to do business in Delaware through its agent Valis Group, Inc., located at 501
 5 Silverside Road, Suite 105, Wilmington, Delaware, 19809. Upon information and belief, Defendant
 6 Hotels Combined, itself or through affiliated entities, owns, uses, and/or provides content for,
 7 and/or has owned, used, and/or provided content for at least the domain names
 8 hotelscombined.com, 7ojozat.com, amazebuy.com, booking.us.org, bookingadvisor.com,
 9 competehotel.com, brands.datahc.com, discounthotelcompare.com, easyhotelprice.com,
 10 exelentia.com, findexclusivehotels.com, gootels.com, hotel-discount.com, hotel.net, hotel2k.com,
 11 hotelbookingadvisor.com, hotelbookingsg.com, hotelchatter.com, hotelcomparerate.com,
 12 hoteldiscountbooking.com, hotelika.com, hotelium.com, hoteloogle.com, best-hotel-bookings.com,
 13 visitbritain.com, hotelstravel.com, hoteltout.com, intelligent-booking.com, momondo.com,
 14 mrhotelfinder.com, pulphotel.com, rome2rio.com, rrooms.com, securehotelbooking.com, skyscann
 15 er.com, travbuddy.com, travel-allin1.com, travelhotelbooking.net, worldhotelsdeal.com, and
 16 smartertravel.com. Upon information and belief, during all relevant time periods, Defendant Hotels
 17 Combined and/or its related or affiliated companies regularly transacted or solicited business in this
 18 district through, *inter alia*, websites resolving to hotelscombined.com, 7ojozat.com, amazebuy.com,
 19 booking.us.org, bookingadvisor.com, competehotel.com, brands.datahc.com,
 20 discounthotelcompare.com, easyhotelprice.com, exelentia.com, findexclusivehotels.com,
 21 gootels.com, hotel-discount.com, hotel.net, hotel2k.com,
 22 hotelbookingadvisor.com, hotelbookingsg.com, hotelchatter.com, hotelcomparerate.com,
 23 hoteldiscountbooking.com, hotelika.com, hotelium.com, hoteloogle.com, best-hotel-bookings.com,
 24 visitbritain.com, hotelstravel.com, hoteltout.com, intelligent-booking.com, momondo.com,
 25 mrhotelfinder.com, pulphotel.com, rome2rio.com, rrooms.com, securehotelbooking.com, skyscann
 26 er.com, travbuddy.com, travel-allin1.com, travelhotelbooking.net, worldhotelsdeal.com, and
 27 smartertravel.com.

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1 13. Upon information and belief, Defendant Swiss is a foreign business corporation
2 registered in the State of California, with its principal place of business at 818 West Seventh Street,
3 2nd Floor, Los Angeles, California 90017. Upon information and belief, Defendant Swiss, itself or
4 through affiliated entities, owns and uses, and/or has owned and used, at least the domain name
5 swiss.com. Upon information and belief, during all relevant time periods, Defendant Swiss and/or
6 its related or affiliated companies regularly transacted or solicited business in this district through,
7 *inter alia*, website resolving to booking.swiss.com.

8 14. Upon information and belief, Defendant Travix is a Georgia corporation with its
9 principal place of business at 333 W. Santa Clara St., Suite 800, San Jose, California 95113. Upon
10 information and belief, Defendant Travix itself or through affiliated entities, owns, uses, and/or
11 provides content for, and/or has owned, used, and/or provided content for at least the domain name
12 vayama.com Upon information and belief, during all relevant time periods, Defendant Travix and/or
13 its related or affiliated companies regularly transacted or solicited business in this district through,
14 *inter alia*, a website resolving to vayama.com.

15 15. Upon information and belief, Defendant VisitUSA is a Utah limited liability
16 company, with its principal place of business at 1021 Dowington Ave., Salt Lake City, Utah 84105.
17 Upon information and belief, Defendant VisitUSA, itself or through affiliated entities, owns, uses,
18 and/or provides content for, and/or has owned, used, and/or provided content for at least the domain
19 name travelaffiliatepro.com. Upon information and belief, during all relevant time periods,
20 Defendant VisitUSA and/or its related or affiliated companies regularly transacted or solicited
21 business in this district through, *inter alia*, website resolving to travelaffiliatepro.com.

22 16. The true names and capacities, whether individual, corporate, or otherwise, of
23 Defendants Does 1 through 100 are presently unknown to Plaintiff, who, therefore, sues them by
24 such fictitious names. Plaintiff expects, but is presently without information sufficient to confirm,
25 that one or more of Defendants distributed Plaintiff's photographs to third parties without Plaintiff's
26 authorization and/or otherwise infringed upon Plaintiff's copyright rights to the works of art at issue
27 in this case, infringing those copyright rights. At such time as Plaintiff ascertains the identity and
28 nature of any such third parties, Plaintiff will seek leave of Court to amend this Complaint

1 accordingly. On information and belief, Plaintiff alleges that each of Does 1 through 100 was the
 2 agent, representative, or employee of each of the other Defendants and was acting at all times
 3 within the scope of his, her, or its agency or representative capacity, and that each of Does 1
 4 through 100 are liable to Plaintiff in connection with the claims sued upon here and are responsible
 5 in some manner for the wrongful acts and conduct alleged here.

6 **FACTUAL BACKGROUND**

7 17. Over her more than 20 year career, Junior Lee has established a widely successful
 8 business in travel and hotel photography worldwide. She has photographed numerous storied
 9 properties, including The Setai Miami (USA), The Heritage House Mendocino (USA), The Chedi
 10 Milan (Italy), The Leela Goa (India), The Chedi Muscat (Oman), The Nam Hai Hoi An (Vietnam),
 11 The Chedi Chiang Mai (Thailand), The Chedi Phuket (Thailand), The Datai Langkawi (Malaysia),
 12 The Andaman Langkawi (Malaysia), The Saujana Kuala Lumpur (Malaysia), The Club at The
 13 Saujana Kuala Lumpur (Malaysia), Carcosa Seri Negara Kuala Lumpur (Malaysia), The Legian
 14 Seminyak (Bali), The Club at The Legian Seminyak (Bali), The Chedi Club Ubud (Bali), The Serai
 15 Club Jimbaran (Bali), The Lalu Sun Moon Lake (Taiwan), Langsuan Apartment Bangkok
 16 (Thailand), Seah St. Apartment (Singapore), GHM Boutique Products (Singapore), The Fullerton
 17 Hotel (Singapore), La Pari-Pari Hotel Langkawi (Malaysia), and Four Seasons Great Exuma
 18 (Bahamas). Her photographs are highly sought after works of art that businesses worldwide
 19 routinely display in the course of promoting their facilities, custom, and trade. Her photographs of
 20 The Setai Miami, The Chedi Muscat, The Nam Hai Hoi An, The Chedi Club Ubud, The Chedi
 21 Chiang Mai, The Chedi Phuket, The Leela Goa, The Carcosa Seri Negara Kuala Lumpur, The Club
 22 at The Legian Seminyak, The Andaman Langkawi, The Saujana Kuala Lumpur, The Lalu Sun
 23 Moon Lake, and The Datai Langkawi (the “Hotel Photographs”) are at issue in this matter.

24 18. Ms. Lee’s photography business is promotional in nature. Generally, Ms. Lee is
 25 contracted by her clientele to photograph certain items, personnel, sites, or facilities, modify the
 26 images as necessary, and deliver the final product to her clientele for approval. Ms. Lee is usually
 27 compensated via the client’s purchase of marketing materials that incorporate her photographs. In
 28 other words, the client purchases the marketing materials designed and manufactured by Ms. Lee,

1 inclusive of a limited license to distribute the marketing materials created by Ms. Lee. The client
2 does not purchase the underlying photographs.

3 19. Ms. Lee specifically reserves all rights to her works that are not otherwise purchased
4 by her clientele. One of the rights she reserves is the ownership of the photographs, including the
5 copyright in and to the same.

6 20. Ms. Lee, through various business entities (including, but not limited to, Wave-s,
7 The Wave Pte. Ltd. and The Wave Design Pte. Ltd.), obtained copyright registrations from the
8 United States Copyright Office for the Hotel Photographs (collectively and individually,
9 “Copyrighted Works”). True and correct copies of registration certificates for the Copyrighted
10 Works are attached hereto as **Exhibit 1**. These copyright registrations are identified in the
11 following chart:

12 Registration Number	Title of Work
13 VA 1-432-324	Wave-s Photographs 2001
14 VA 1-432-325	Wave-S photographs 2002
15 VA 1-432-326	The Wave Design Pte. Ltd. Photographs 2007 (A)
16 VA 1-432-327	The Wave Design Pte. Ltd. Photographs 2007 (B)
17 VA 1-432-328	Wave-s Photographs 2003
18 VA 1-432-329	Wave-s Photographs 2004
19 VA 1-432-330	The Wave Design Pte. Ltd. Photographs 2006
20 VA 1-432-331	The Wave Pte. Ltd. Photographs 2005 (A)
21 VA 1-432-332	The Wave Design Pte, Ltd. Photographs 2005 (B)
22 VA 1-432-336	Wave-s Photographs 2002 (B)
23 VA 1-433-816	Wave-s Photographs 2002 (C)
24 VA 1-758-524	Wave-s Photographs 2004 (B)
25 VA 1-765-854	The Wave Design Pte. Ltd. published legian 121
26	
27	
28	

Registration Number	Title of Work
VA 1-824-376	The Wave Design Pte. Ltd. – datai105
VA 1-825-249	The Wave Design Pte. Ltd. – detai104
VA 1-825-264	The Wave Design Pte Ltd. - andaman067
VA 1-825-429	Wave-s Photographs 2004 (D)-chediclub141
VA 1-825-431	Wave-s Photographs 2004 (C) – legian122
VA 1-829-021	The Wave Design Pte. Ltd. – andaman068
VA 1-842-228	The Wave Design Pte. Ltd. – bkk018 – bkk025
VA 1-842-230	Wave-s Photographs 2004 – Chiangmai239
VA 1-857-706	Wave-S Photographs 2002 – lalu159
VAu 1-055-458	The Wave Design Pte. Ltd. Unpublished photographs 2005 (C) setai429 – setai803
VAu 1-055-459	The Wave Design Pte. Ltd. Unpublished photographs 2005 (D) setai804 – setai958; setai960 – setai179
VAu 1-057-927	The Wave Pte. Ltd. unpublished setai182
VAu 1-060-180	The Wave Design Pte. Ltd. unpublished setai0183; 0184
VAu 1-060-182	Wave-s unpublished setai959
VAu 1-110-867	The Wave Design Pte. Ltd. – Unpublished Photograph setai1180
VAu 1-144-751	The Wave Design Pte. Ltd. – Unpublished setai1181

21. On November 11, 2011, the authors of the Copyrighted Works, by and through Ms. Lee, assigned all right, title and interest in and to the Copyrighted Works to Plaintiff.

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324, VA 1-432-325, VA 1-432-326, VA 1-432-327, VA 1-432-328, VA 1-432-329, VA 1-432-330, VA 1-432-331, VA 1-432-332, VA 1-432-336, VA 1-433-816, VA 1-758-524, VA 1-765-854, VA 1-824-376, VA 1-825-249, VA 1-825-264, VA 1-825-429, VA 1-825-431, VA 1-829-021, VA 1-842-228, VA 1-842-230, VA 1-857-706, VAu 1-055-458, VAu 1-055-459, VAu 1-057-927, VAu 1-060-180, VAu 1-060-182, VAu 1-110-867, and VAu 1-144-751.

31. Defendants' infringement of Plaintiff's rights in and to each of the Hotel Photographs that are the subject of the Copyrighted Works constitutes a separate and distinct act of infringement.

32. Upon information and belief, Defendants knew or should have known that their acts constituted copyright infringement.

33. Defendants' conduct was willful within the meaning of the Copyright Act.

34. Plaintiff has been damaged by Defendants' conduct, including, but not limited to, economic losses. Plaintiff continues to be damaged by such conduct, and has no adequate remedy at law to compensate Plaintiff for all the possible damages stemming from the Defendants' conduct.

35. Because of the willful nature of the Defendants' conduct, Plaintiff is entitled to, at its election, an award of statutory damages for each instance of copyright infringement by Defendants, in lieu of recovery of exemplary damages, as well as attorneys' fees, and all associated costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment against Defendants as follows:

1. That Defendants have infringed, directly or indirectly, Plaintiff's rights in the Copyrighted Works;

2. For entry of preliminary and permanent injunctions providing that Defendants and their officers, agents, servants, and those persons in active concert or participation shall be enjoined from directly or indirectly infringing Plaintiff's rights in the Copyrighted Works;

3. For entry of preliminary and permanent injunctions providing that Defendants shall immediately remove all copies of the Copyrighted Works from their websites and/or immediately seek a license from Plaintiff for their use;

1 4. For Plaintiff's damages and Defendant's profits in such amount as may be found;
2 alternatively, for maximum statutory damages in the amount of \$150,000 with respect to each
3 copyrighted work infringed either directly or indirectly, or for such other amounts as may be proper
4 pursuant to 17 U.S.C. 504(c);

5 5. For entry of judgment that Defendants shall pay Plaintiff's costs and attorneys' fees
6 incurred in this action, pursuant to 17 U.S.C. § 505;

7 6. For entry of judgment that Plaintiff be granted such other relief as the Court deems just,
8 equitable and proper.

9 DATED: March 23, 2015

COBALT LLP

11 By: /s/ Vijay K. Toke
12 Vijay K. Toke

13 Attorneys for Plaintiff
14 THE WAVE STUDIO, LLC

15
16 **JURY DEMAND**

17 The Wave Studio, LLC respectfully requests a jury trial on all issues triable thereby.

18
19 DATED: March 23, 2015

COBALT LLP

21 By: /s/ Vijay K. Toke
22 Vijay K. Toke

23 Attorneys for Plaintiff
24 THE WAVE STUDIO, LLC